



CITATIONS

MARCH - TWO THOUSAND TWENTY THREE

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ASK IS ON THE MOVE!

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PRESIDENT’S MESSAGE

by *Brian C. Israel*

As an estate planning and probate attorney here at Norman Dowler, LLP in Ventura, I have been blessed to be a member of the Estate Planning and Probate Section of the Ventura County Bar Association. The programming, events and overall camaraderie of the section is what Bar sections should strive to be.

Amber Rodriguez, the Law Office of Amber Rodriguez, has been instrumental in its success as chair of the section for over a decade. There is not enough space in this section to truly thank Amber’s contributions, but a “mic drop” and “Amber was here,” are well deserved. It harkens back to Kobe Bryant’s last game, “Mamba out.”

Amber, in true form, was gracious in reflecting on her time as chair of the section. “I am grateful for the time our section allowed me to serve them; for the things I learned and experienced; I am grateful for being given the time to return a small portion of the kindness and support our legal community has given me.”

It is a great reminder that volunteering your time can and should be rewarding. Amber

has now handed the reins down to a dynamic duo. A Kobe/Shaq partnership could be in the works.

Katie Becker, partner at Lester, Schuck, Becker, Dehesa & Hirschberg, LLP, and **Sasha Collins**, partner at Myers, Widders, Gibson, Jones & Feingold, LLP, are the new co-chairs of the Estate Planning and Probate Section of the VCBA and it is my pleasure to introduce them in their new roles. They hope to assist the Probate Bar in myriad of ways and to continue to provide the high caliber MCLE presentations that local attorneys have come to expect from the section.

Sasha also emphasized that, “as the probate court moves to electronic filing and more modern systems, Katie and I hope to best serve all of our section members by connecting the bench and bar so as to best serve the needs of the community.”

The Estate Planning and Probate Section is in good hands, and we look forward to moving from E-delivery to E-filing and beyond. Thank you, Katie and Sasha, for volunteering your time as co-chairs of the section.

We are lucky to have so many great estate planning attorneys here in Ventura County. As you may know, estate planning sets families up for success and provides some peace of mind. There is the old adage for doctors that “Doctors make the worst patients.” I’m not sure if there is a similar saying for attorneys, but consider this a gentle nudge to make sure your affairs are in order.

Lastly, we are past the all-star break in the NBA and the Lakers are taking it down to the wire on whether they will make the playoffs. Fingers crossed! We also welcome March Madness this month and I can only wish you luck in your brackets.



Brian C. Israel is an associate attorney at Norman Dowler, LLP in Ventura. His practice focuses on estate planning, probate and trust administration. He can be reached at bisrael@normandowler.com or 805-654-0911.



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A to Z Law is pleased to announce that Dennis P. McNulty and Mischa N. Barteau have joined the firm.

Welcome Dennis and Mischa!

Dennis P. McNulty has joined the firm as partner, focusing on real estate, commercial, business, and corporate transactions, as well as administrative law and the representation of special districts and agencies. A lifelong Ventura County resident, Dennis started his career with A to Z Law as an associate. His 25 years' experience and background in litigation give Dennis a valuable perspective and talent for managing inherent risks, resolving disputes and moving transactions forward.



Dennis may be reached at dmcnulty@atozlaw.com / 805.988.9886



Mischa N. Barteau has joined the firm as an associate specializing in civil litigation, mediation, and negotiation. Mischa received her JD from Pepperdine University School of Law where she was a member of the Pepperdine Law Review and received her Master of Dispute Resolution from Pepperdine's Straus Institute for Dispute Resolution. Mischa's experience encompasses all aspects of civil litigation in state and federal courts, at the trial and appellate levels.

Mischa may be reached at mbarteau@atozlaw.com / 805.988.9886

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It's Your Turn

By Wendy Lascher

It's been a long time that I've edited CITATIONS. The last several years **Cari Potts** has done a wonderful job



relieving me of much of the burden. I am exceedingly grateful to her and to the Editorial Board, as well as to VCBA for the recognition at the Annual Dinner last fall.

Before I became editor for this last round (fifteen or twenty years ago), there used to be a different editor every year or two. Cari and I think it's time to resume that tradition, or to find another way to address the job. We are both running short of creative energy. Term limits are good for everyone.

We are not planning to dump the editorial work onto someone without helping them transition, but we would love to find volunteers to join the Editorial Board and help us and the VCBA Board of Directors come up with a process for finding our successors and keeping CITATIONS going.



Wendy Lascher has been an appellate lawyer for 49+ years. She is a partner at Ferguson Case Orr Paterson LLP and longtime co-editor of CITATIONS. wlascher@focplaw.com or 805-659-6800.



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HAVE YOU HEARD?



Congratulations to Ventura Superior Court **Judge Tari Cody**, nominated to fill the seat of retired **Justice Steven Perren** on Division Six of the Second District Court of Appeal.



David J. Olivas has been elected as the new president of the Latinx Bar Association of Ventura County and also as co-chair of Ventura County's Public Safety & Racial Equity Advisory Group. UCLA Law graduate Olivas clerked for a federal judge and has since spent 37 years practicing municipal and water law. davidjolivas@aol.com.



Myers, Widders, Gibson, Jones & Feingold welcomed **Monique Fierro** as an associate in January. Fierro, who graduated from Stanford Law School in 2014, is a civil litigator.

Vanessa Valdez and family are pleased to share the birth of their daughter Evie Valdez born on Feb. 22 at 3:50 a.m. She weighed 7 lbs. 3 oz. Congratulations!

Opening for a Court Attorney in the Family law Self-Help Center. Here is the link to the job bulletin for more information: <https://www.governmentjobs.com/careers/venturascl/jobs/3913526/court-attorney-family-law-self-help-center>.

Please save the date of Wednesday, May 3rd in your calendars as The Colleges of Law bids farewell to The Great Barbara Doyle. They will host an Open House from 5pm-7pm at the Ventura Campus in the Community Room, with a recognition at 6pm for her 43 years of service. Feel free to stop by anytime between 5-7 to wish Barbara farewell.

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ASK is on the move!

By Vanessa Frank



Sometimes as lawyers, it's easy to feel as though everyone we know is a lawyer or somehow law-involved: paralegals, clerks, experts, judges. It can be too easy to forget that for a lot of kids, being a lawyer or having any kind of career in the legal field is something completely remote and abstract. Connecting the dots to get from middle school to being the first in your family to graduate high school, college, or secure a professional degree can be overwhelming and hard to know where to start. This is why programs such as Attorneys Sharing Knowledge ("ASK"), as initiated by recent Past President **Jacquelyn Ruffin**, are so important. And this why it was such a great time recently to be part of the team of four who presented to Ms. Christine Simonson's 7th and 8th grade AVID classes on being a lawyer and other careers in the law. I was so happy to be on the panel with **Efan Wu**, defense attorney at the Ventura County Public Defender's Office, **Kristine Tijam**, of Procter, Shyer & Winter, LLP, and our own wonderful Sandra Rubio, Executive Director of the Ventura County Bar Association.

Extemporaneously we each spoke about the work we do, how we came to the work and opportunities for the students to get involved. We encouraged them to join Mock Trial and to volunteer at Swap Meet Justice, and to reach for the best possible colleges and universities they could, so that as many doors would be open to them as possible. The students themselves asked a wide range of questions, everything from clarifying questions about Breaking Bad and Better Call Saul to how much the bar exam costs.

I think we may have even surprised one another with the broad range of experience – Sandra as a mediator and director of a non-profit professional association, Efan as a government employee and criminal trial attorney, Kristine as a litigation assistant and claims adjuster, graduate of Colleges of Law and now civil litigator, and me as the owner of a small, community-based firm representing immigrant families

and survivors of violence and advising local policy advocates and individuals on advocating for their rights. Over the two short class periods, we felt the students become inspired and more clear-eyed regarding the range of law-related jobs they might aspire to. We look forward to seeing them apply for internships with various firms and agencies, volunteer at events such as Swap Meet Justice and participate in extracurriculars such as Mock Trial or Speech and Debate. Our group agreed, we look forward to being able to work with students in this way again many times in the future, as well as working with our other colleagues at the Bar, sharing our experiences and tips for success with the next generation.



Vanessa Frank serves the Central Coast of California as an attorney and advocate for immigrant justice through the Law Office of Vanessa Frank. Please reach her at info@vanessafranklaw.com.



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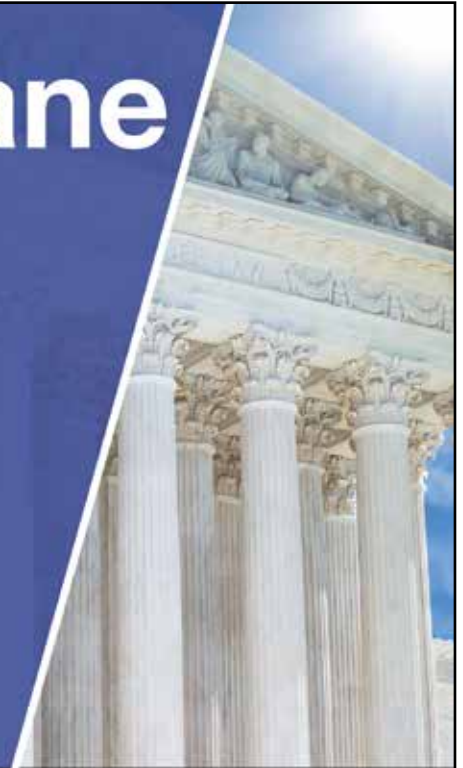
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BARRISTERS' CORNER: ADUS VS. "HIGH FIRE HAZARD ZONE" RESTRICTIONS

by Ian Elsenheimer

California is experiencing both a housing crisis and an increased prevalence of wildfires.

In an attempt to address California's housing crisis, the state has enacted legislation to promote the development of accessory dwelling units ("ADUs") and reduce local governments' control over such developments. (Gov. Code, § 65850, et seq.) As a result, a battle is unfolding over the state's demand for more housing and local governments' desire to protect residents from fire-related disasters.

Government Code section 65852.2, subdivision (a)(1)(A) provides local governments with some limited ability to restrict the locations of ADUs within their boundaries. Local agencies have the power to "[d]esignate areas ... where accessory dwelling units may be permitted[.]" and "[t]he designation of areas may be based on ... **the impact of accessory dwelling units on traffic flow and public safety.**"

Many local governments have used this "impact on traffic flow and public safety" language to support land use codes that restrict ADUs in areas subject to increased fire risks. Proponents of these restrictions argue that, among other things, they are necessary to prevent an increase in traffic jams and evacuation difficulties during wildfires.

For example, section 9283.2 of the City of Agoura Hills Municipal Code provides that "[w]here a lot or any portion thereof is located within a very high fire hazard severity zone, only one (1) ADU or [junior ADU] shall be permitted on the lot unless the lot has two (2) distinct means of vehicular access ..."

San Buenaventura Municipal Code section 24.430.040.C states that "no ADUs shall be permitted in areas within designated Very High Fire Hazard Severity Zones; however, [junior ADUs] are allowed."

Recently, the California Department of Housing and Community Development ("HCD"), the agency charged with reviewing local ADU ordinances (Gov. Code, § 65852.2, subd. (h)), has pushed back on these types of wildfire based ADU restrictions.

In Jan. 2022, the City of Berkeley adopted an ADU ordinance that prohibited more than one ADU or junior ADU in areas the city designated as "Very-High Fire Hazard Severity Zones." (Berkeley Municipal Code § 12.99.030.) The City relied on a 2021

UC Berkeley traffic simulation that analyzed a hypothetical wildfire evacuation in the Berkeley Hills to support the proposition that more residential units in this area could negatively impact traffic and public safety. The HCD responded:

[W]hile the HCD is sympathetic to concerns about fire safety and the need to ensure adequate evacuation in the event of a fire, the City has not adequately demonstrated that new ADUs will actually impact public safety in the [Very High Fire Hazard Severity Zone]. The traffic simulation study is not specific to ADUs and [junior ADUs], and therefore the information and conclusions do not adequately justify the restriction of ADUs in the Hillside Overlay District per Government Code 65852.2, subdivision (a)(1)(A).

In similar circumstances playing out in the town of Portola Valley, an HCD Housing Policy Analyst emailed Portola Valley representatives stating:

... The CalFire maps that establish High Fire Hazard Zones may impact building design standards (such as required building

materials) and have no impact on areas where ADUs may be permitted.

... [T]he City may not curtail ADU creation by ordinance promulgated pursuant to authority granted in Government Code section 65852.2, subdivision (a)(1)(A) based on the impact of ADUs on public safety without evidence provided to HCD for HCD to determine the City's compliance with the statute.

Although the HCD has taken the position that these fire-related ADU restrictions are largely impermissible under Government Code Section 65852.2(a)(1)(A), there do not appear to be any published cases that analyze this issue.

Stay tuned – as we are likely to see the courts weigh in as this battle wages on.



Ian Elsenheimer is a real estate, land use and business attorney at Ferguson Case Orr Paterson LLP. ielsenheimer@focplaw.com. (805) 659-6800.

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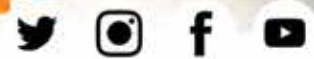
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